

Maine's Capacity Development Strategy

A. Introduction

The *Report of Findings* submitted by Maine's Capacity Development Citizens Advisory Committee (AC) is a comprehensive document which provides a clear discussion of the five elements that a state is required to consider when preparing a Capacity Development Strategy. This strategy provides a description of the process and rationale by which the Maine Drinking Water Program (DWP) has used the AC's recommendations to fashion a Capacity Development Strategy for the State of Maine. This document emphasizes the overall content of the strategy rather than the process by which it will be carried out. It is written in plain language designed to make it easy to read by managers, stakeholders, and citizen policy makers.

B. Public Involvement

The AC provided the primary means for obtaining public involvement in developing a strategy. The members of the Committee represented a wide array of interests. During the course of the AC's work, members networked among themselves and with their organizational associates, and respective constituencies not directly present during AC proceedings.

In spite of the potential for late newcomers to slow down a process already underway, the DWP felt that it was critical to keep this process open for interested parties to join the AC's work at any time. AC membership were encouraged to recommend to the DWP additional interested parties whose perspectives would be of value to the strategy development; several members were added to the AC ranks through the efforts of and active networking by its own membership.

The DWP and AC concurred that because of the timing of Maine's strategy development efforts and of the program's lack of controversy and additional requirements, that statewide public meetings were unlikely to be well-attended and hence effective. Alternately, Maine relied on an open-forum approach to public involvement as this strategy was developed. Capacity development efforts—AC meeting announcements, minutes, and progress reports—were distributed to an extensive mailing list of relevant parties and those interested but unable to participate. All recipients were strongly encouraged to assist the state by alerting potentially interested individuals and encouraging them to engage in the strategy development process. The AC emphasized the openness of the process into which any interested person or organization was welcome to join at any time. DWP staff contacts were made publicly available for questions and comments on capacity issues through the mailings described above as well as through distribution via the DWP newsletter and website.

It is anticipated that public interest in capacity issues will grow as the Strategy is implemented and assistance efforts begin to have a direct impact on water systems and their customers. Accordingly, the Maine DWP looks to the future of its capacity development efforts with the following plans for ongoing public involvement:

- *There will be an ongoing role for the AC, whose membership will continue to remain fluid and open by intention; some participants who have been very helpful so far may need to disengage, and, as described above, new members have been and will continue to be welcomed.*
- *The intent by EPA for state strategies to be subject to revision and redirection as necessary is interpreted by the Maine DWP as necessarily calling for the insight and effort of the public we aim to serve; to significantly revise or expand upon Maine's Strategy as described in this present submission can only come forth following the advisement of our regulated communities, partners, and citizens.*

C. The Five Required Elements

The SDWA requires the State to consider five elements when preparing its strategy:

- Methods or criteria to prioritize systems
- Factors operating in the State which impair or enhance capacity
- How the State will use the authority and resources of the SDWA
- How the State will establish a baseline and measure improvements
- Identification of interested persons

The AC looked at all of these elements in detail and the results of their deliberations are included in the *Report of Findings*. This section of the document will be limited to a discussion of how the DWP evaluated the Committee's findings in these five areas and its decisions on which elements to include in the final strategy.

C.1. Prioritizing Systems for Assistance under the Strategy

The DWP will adopt the prioritization scheme developed by the AC, which is illustrated on pages **3-5** of the *Findings Report*. In simplest terms, this approach targets systems that are experiencing compliance problems which are further divided into "critical" and "serious" categories, based on consideration of potential public health impacts.

The prioritization scheme is not intended as the sole means by which a water system would become eligible for assistance. All existing systems may apply directly to the DWP for assistance at any time. Furthermore, systems that rise to the top of the priority list because they are having compliance problems may not receive assistance if they are unwilling to engage in a partnership with the DWP and its service providers. This approach is consistent with AC recommendations.

Finally, the existence of a prioritization scheme is intended to target capacity development efforts in a manner that recognizes resource limitations, but it is not expected to limit the eventual reach of these efforts. As part of Maine DWP's future initiatives, capacity development assistance is expected to be available in the longer term to virtually any water system that has a need and is willing to cooperate with DWP or its partners in achieving solutions.

C. 2. Factors that Encourage or Impair Capacity

The AC considered many factors that may enhance or impair capacity development. In its review of all factors identified, the AC selected a subset for consideration when putting together its recommendations on the specific types of capacity development assistance that should be provided in Maine (the fourteen recommendations listed on page 4 of the Findings Report). Those factors that were considered to be clearly outside of the DWP's ability to influence or control were dropped from immediate consideration. However, with an eye to the future, the Committee retained all of the factors in its report for our ongoing evaluation of Maine's strategy for improving capacity. Changing social, demographic, political, and economic circumstances will make some factors more approachable in the future than they appear to be at present; elements currently selected for inclusion may some day be removed for precisely the same reasons.

In its review of the *Findings Report*, DWP staff studied all of the factors listed and concurred broadly with the Committee's choices of those factors that should comprise Maine's capacity development efforts in the immediate future as well as over time.

C. 3. How the State will use the Authorities and Resources of SDWA

The *Findings Report* lists fourteen recommendations for programmatic activities that DWP could choose from in implementing a Capacity Development Strategy. DWP weighed all of these recommendations carefully and concluded that it would select nearly all of them for attention during the initial implementation of its strategy. Several of the recommendations, in fact, are presently being addressed by programs now in place or in development by DWP and its partners.

The SDWA requires the DWP to apply its authorities and resources in three general areas:

Assist systems in complying with the national primary drinking water regulations.

Virtually all of the chosen recommendations are designed to enhance the ability of water system managers and operators to understand and successfully comply with the regulations. The prioritization scheme previously discussed will target systems that are experiencing compliance problems.

Encourage the development of partnerships between public water systems. The implementation and ongoing development of the Strategy will continue to rely on a stakeholder-based process already in full employ throughout several of DWP's efforts.

Assist public water systems in the training and certification of operators. DWP has sponsored operator certification training for a number of years and will continue to do so into the foreseeable future. Efforts are presently underway to provide both training as well as reimbursement for training costs for eligible systems in concert with partnering organizations.

The selected recommendations, presented in detail in the Findings Report, are listed below and are individually followed by DWP's proposed responses to them as they relate to improving TMF capacity.

1. The DWP should develop and utilize an enhanced sanitary survey that will permit field staff to periodically collect TFM information about each of the State's regulated water systems, which can then be used to determine those systems most in need of TMF assistance.

The DWP ***largely*** concurs, and expects to develop a brief questionnaire for inclusion into the survey process by January 1, 2001. Our present intent is to develop this from a newsletter supplement and/or independent mass-mailing over the fall of 2000 to seek initial "snapshot" data on very rudimentary aspects of TFM capabilities among our water systems.

The DWP expects that these additional data collected during sanitary surveys will be more germane to identifying a given system's specific TFM capacity strengths and weaknesses, as opposed to use as a prioritization tool. These new data will also be fundamentally important to the development of baseline depiction of capacity among Maine systems. However, because the implementation of the enhanced sanitary survey will necessarily be an ongoing, system-by-system process, they are less appropriate as a prioritization construct as compared to statewide compliance data.

2. A self-assessment tool should be developed so that water systems can examine their capabilities and determine what type of assistance would provide the most benefit.

The DWP concurs, and in fact has been considering other states' similar initiatives. The DWP proposes continuation of these efforts with the expectation that a self assessment form with guiding materials should be in place by July 1, 2001.

The DWP expects that the self-assessment tool will serve multiple key purposes:

- a) It will be available for any system who voluntarily expresses an interest in becoming more knowledgeable of TFM capacity issues at their system regardless of compliance status; data derived from voluntarily completed self assessments will not only assist the system, but will additionally help bolster the DWP's baseline depiction of capacity.***
 - b) As a measure of the effectiveness of assistance, high-priority systems who willingly agree to receive TFM capacity assistance will be asked to complete self assessments prior to receiving help, and approximately one year following assistance. Both the system and the DWP will be provided with some measure over time as to the effectiveness of the assistance delivered, and the DWP will yield additional data for inclusion into the baseline depiction.***
 - c) Findings from the first self assessment will be critical in targeting the nature of the assistance that will be most appropriate; a system deemed high priority for assistance may be weak across all aspects of the TFM capacity area, or alternately may require training and assistance with just certain components. Accordingly, the self assessment form will assist the DWP in determining the most appropriate targeting of resources to each system, and will in their total help determine statewide patterns of capacity development need.***
3. Training should be provided to water system personnel in fiscal capacity and financial management.

DWP concurs; coordination between DWP and partners (Maine Rural Water Association, Maine Water Utilities Association) currently provide a broad array of technical and managerial topics germane to public water systems. The DWP will seek the insight of these partners, as well as others (NERCAP, MMBB, PUC) to both better define the fiscal knowledge need levels among PWSs, as well as to locate/design programs that are appropriately responsive.

Further, the DWP recognizes that other states and national organizations are likely to have good, effective, PWS-specific fiscal management materials in development or in use. The DWP will actively seek out examples of approaches developed elsewhere which have merit for possible adaptation to drinking water issues in Maine.

No firm time commitment is attached to this element; the DWP expects that the determination of an appropriate set of responses will arise from what is learned about financial capacity among PWSs over the next year or more. Collection,

review, and dissemination of readily available financial training and guidance materials in use by other states and national organizations will be an ongoing process.

4. Training in technical, managerial, and financial capacity elements will be needed for drinking water program staff, contractors, consultants, and other service providers.

DWP concurs and expects to work with such allied entities as ASDWA, NEIWPC, and EPA (among others) to help locate and implement training for DWP staff most likely to be in a position to assist Maine's PWSs to learn more about TFM capacity and about what tools and resources exist to improve TFM capacity.

No firm time commitment is attached to training DWP staff; as above, the collection, review, and dissemination of readily available TFM training materials for state staff, contractors, consultants, and other service providers will be an ongoing process.

5. Water metering requirements already contained within Maine regulation should be enforced so that water systems know how much water they are using. The AC recommends meters at the treatment plant rather than individual meters.

DWP concurs relative to the merits of accurate and comprehensive metering. The DWP commits to a review of current metering requirements with the intent to explore the advisability of rule changes to respond to this recommendation. It is anticipated that DWP will be able to report back on the status of this review element during 2001.

6. The DWP should cooperate with boroughs, communities and cities to ensure that public water system capacity issues are actively considered during planning activities.

The DWP concurs, and points out that established relationships between the DWP, Maine Municipal Association, and State Planning Office have been beneficial in addressing other new elements of the SDWA. As patterns of development—"sprawl"—are a key area of concern among a broad spectrum of Maine's citizens and decision makers, the DWP expects to work with key relevant parties to assist municipal and local entities to more closely link public water supply issues to the ongoing discussions on development matters currently underway in Maine.

The DWP will over the next two years investigate opportunities to develop new, and to update existing materials designed for municipal officials and organizations that provide information on public water systems in general, and for the need to ensure

sound TMF capacity among PWSs more specifically. As was discussed with training needs and opportunities above, the DWP recognizes the likelihood that good, clear, and relevant materials geared toward municipal concerns are available for our use but not presently known to us. The DWP's efforts over the next two years will necessarily include searches among national organizations for such resources available for possible adaptation and adoption by Maine towns and cities.

7. The DWP should enhance its efforts in providing early notice of impending rule changes or new regulatory requirements.

DWP concurs, and commits to continued efforts, as well as ongoing improvement to those efforts as needed, to augment work underway by DWP, EPA, American Water Works Association, National and Maine RWA, and MWUA to provide effected systems with notice of, and guidance for, understanding and satisfying regulatory requirements for which change is seemingly constant.

8. When feasible, the DWP should use third party, rather than governmental, studies to show that efficiencies can be gained through consolidation.

The DWP concurs that independent studies into system consolidation issues are of value to the DWP, those we serve, and those we work alongside. The DWP, however, will similarly disseminate good and independent studies that become available which illustrate circumstances where consolidation is not advisable. As such, the DWP commits to an ongoing effort to locating and disseminating independent research which depicts system consolidation's benefits and shortcomings, opportunities and costs, and pros and cons to afford Maine PWSs with the broadest possible presentation of information available to support their consideration of the consolidation issue.

9. The DWP should encourage cooperation among State agencies and between Federal, Tribal, and local levels of government on matters affecting drinking water systems at every reasonable opportunity.

The DWP concurs, and points out that efforts to move forward in a cooperative and open manner in concert with an array of public and private partners is an important aspect of DWP's current efforts, as evidenced by this submission. The DWP commits to seek and seize opportunities to improve our own capacities in this critical regard.

10. The DHS should take a proactive approach in educating the public with regards to TMF. The AC recommended six ideas in which the DHS could improve public involvement and enlightenment.

The DWP will take these recommended tools under ongoing advisement; several key programmatic responses to these suggestions are described previously, and/or are already in place and able to be expanded or revised as desirable: CEU opportunities for training, website development and revision, and participation in gradeschool-level water curricula are established practices for which the DWP will look to maintain and further develop over the next two years.

The DWP agrees that consistency of terminology, and delivering regulated systems with cyclical updates of rule changes are valid suggestions. The DWP commits to progress in these areas, and will likely for the immediate term rely on existing tools (DWP's quarterly newsletter, DWP's website) to achieve these recommendations

11. The overall success of the State's Capacity Development Strategy will depend in part on the Drinking Water Program's acquisition of appropriate financial and personnel resources to design, promote and deliver TMF assistance programs. The CAB proposed ideas on how it could assist in this process.

DWP appreciates the AC's recognition of resource constraints as well as the AC's having offered, as an entity and as individuals, to continue to support DWP in the ongoing development, implementation, and improvement of this strategy.

The DWP will continue to seek opportunities to use limited human and financial resources in the fairest and most effective manner available to us. DWP will consider opportunities for dedication of capitalization grant resources toward TMF capacity improvement opportunities during this upcoming grant application preparation during the Summer/Fall 2000.

Three of the fourteen recommendations were tabled by the DWP, but not immediately included in the developing strategy:

- Consider the possibility of creating a loan guarantee fund to assist small water systems in obtaining private financing for capital improvements.
- The State of Maine should change current State statutes to reflect the national trends that private water providers be eligible for appropriate DWSRF loan funds and grants.

Comment: following review of existing loan practices and conferring with Maine Municipal Bond Bank, the DWP believes that Maine is presently meeting these goals.

- The Regulatory Commission of Maine should continue to work for changes in their statutory and regulatory authorities to improve the manner in which that agency regulates small public drinking water systems.

Comment: DWP concluded that this was likely geared toward the Maine Public Utilities Commission; at the same time, the elements and proposed responses discussed above should, if implemented successfully, succeed in improving the DWPs regulatory relationships with Maine's smaller systems.

C.4. How the State will Establish a Baseline and Measure Progress

The DWP will adopt the three-pronged tracking system recommended in the *Report of Findings*. In summary, this consists of the following points:

1) Compliance Tracking: This includes observation of compliance trends on a statewide basis, as would be reflected in the triennial report on systems with a history of non-compliance and the Significant Non-Compliance (SNC) exceptions report, as well as system-specific responses following the receipt of assistance under the capacity development strategy. To track the latter, systems that receive assistance may be asked to complete a survey regarding the effectiveness of that assistance, or may be asked to conduct a TFM self-assessment within a year of receiving assistance.

2) Outreach and Assistance: This involves the tracking of efforts more than results. The number of enhanced sanitary surveys conducted, number of capacity related site visits, and number of water systems which complete TFM self-assessments will be tallied annually. ***Where assistance is deemed necessary and helpful, pre- and post-assistance self-assessment will be applied. Comparision of before and after results will provide valuable data on several accounts: the PWS will have an indicator of their improvement; the DWP and EPA will receive quantifiable input on the efficacy of Maine's capacity development efforts; and an additional layer of data will be available for inclusion into (and/or comparison against) our compliance baseline.***

3) Planning: A periodic survey may be conducted to determine how many water systems are engaging in capital planning, other types of business or financial planning, and self-assessment activities. It is felt that planning activities will serve as a useful index of capacity gains by water systems. Over time, statewide trends in the use of planning activities may also reflect the degree to which understanding of capacity issues is spreading among water system operators and managers.

The overall results of these tracking efforts will be used to assess the strengths and weaknesses of the strategy and provide the basis for future enhancements.

C.5. Identification of Interested Persons

The AC identified other interested persons originally not included in the AC. Although some of the identified parties declined to participate in the Committee's activities, it seems clear that a wide spectrum of interest groups was at least given an opportunity to do so, and were in fact kept advised of the AC's progress. The final AC composition represented a broad cross-section of interests and clearly met the SDWA requirement for a proactive process of public involvement.

Participation by the public at large has previously been discussed. Although invoking public interest is often a disappointing undertaking, the DWP will continue to make information about capacity development efforts available through Internet postings, press releases, the quarterly newsletter, and possibly an occasional public workshop that will be scheduled when future modifications in the strategy are made. The state's Public Drinking Water Commission, which has permanent standing, will continue to be a primary vehicle for public involvement as well. Further, as discussed previously, the AC will be invited and encouraged to play an ongoing role in capacity-specific issues as TMF-related needs become better defined and understood.

D. Rationale for the Strategy

All five of the elements required by the SDWA are incorporated in Maine's Strategy.

- 1) A prioritization scheme which centers on system compliance, willingness to cooperate, and public health impacts will be followed.
- 2) The recommendations chosen for early implementation are direct outgrowths of an analysis of the factors that impair or enhance water system capacity in Maine.
- 3) The DWP will use the funding available through SRF capitalization grants to underwrite the costs of this comprehensive assistance program.
- 4) The DWP will measure individual system responses to capacity assistance and will track overall trends in compliance within the state. In addition, specific activities carried out under the strategy will be tallied as a general indicator of effort expended.
- 5) Public involvement has been an over-arching priority from the beginning and will continue in the future to form a pivotal aspect of DWP's capacity-related decision making and program development.

Taken together, the recommendations that will be carried out as part of the strategy will provide lasting benefits to existing public water systems by improving the knowledge base of system operators and managers.

E. Resources

Presently, the DWP employs one permanent staff position that may be dedicated to developing all of the learning tools and training programs included in the

recommendations chosen for the strategy. However, because of the integrative and cross-functional nature of TMF capacity development, work that is presently being performed by other DWP staffers, as well as that carried out by statewide and national entities will figure prominently in the successful completion of the tasks identified above as comprising the Maine strategy.

Funding will be provided by an annual set-aside from the State's capitalization grant for the drinking water revolving loan fund. The DWP will, as discussed previously, have a clearer sense for capacity-specific funding commitments for upcoming fiscal years during the next several months as the capitalization grant application process progresses.

A detailed work plan and budget for use of the set-aside funds will be prepared following EPA's review of this strategy.

F. Implementation Schedule

Instead of committing to a rigidly defined schedule, the DWP prefers to retain an element of opportunism in this undertaking, with a view to shopping around for the best goods and services, making maximum use of existing products (which involves searching and screening), and responding to the level of interest shown by water system operators and other officials.

Timeframes for tasks and deliverables, where relevant, are presented above within the context of DWP responses to AC strategy recommendations. In general, many elements have solid, currently existing foundations; others can and will begin immediately for delivery/implementation within a one-year timeframe; additional measures will necessarily require several years to progress as DWP understands, and adapts to, what the baseline data will be telling us about the statewide TMF landscape.

As DWP proceeds to develop specifications and descriptions of the required products, it will at the same time conduct an initial prioritization activity to develop a list of water systems to be targeted during the program's earliest efforts. Input from field offices, direct solicitations of interest from systems, SNC lists and prior reports on systems with a history of capacity related problems will all be used to generate this first group of systems appropriate for early capacity guidance.

G. Integration with Existing Program

There are multiple linkages and interrelationships between the capacity development strategy and other aspects of the DWP. The following points are included as a means of ensuring that these relationships will be taken into account when implementing the strategy.

- The SDWA, and the DWP response to the amended rule, contains several program functions whose recent development elsewhere in the Program provide

outstanding resonance with the matter of system capacity. Source Water Assessment Program, Consumer Confidence Reports, Operator Certification, and SDWIS, among others, represent DWP activities geared to data collection and management, professional development, source stewardship, and public communications, all of which are germane to capacity issues.

- All training programs developed and delivered under the auspices of the strategy will be evaluated for compliance with the “relevancy criteria” established in the State’s operator certification program. Although some subjects will not be directly applicable to operators, many will, and it is important that these programs count toward operator certification and continuing education requirements.
- The prioritization process and subsequent assessment activities carried out under the strategy may be used to steer systems toward the revolving loan fund program.
- The DWP’s compliance strategy allows water systems that have been assessed a monetary penalty to divert some or all of that penalty payment to constructive activities that will help to improve the system’s capacity and will act to prevent future compliance problems. A clearly beneficial application of this principle would be for a system that has been penalized to contract at its own expense with a service provider to conduct a capacity assessment. The system would then be expected to act on the recommendations arising from the assessment so that financial, technical, and managerial capabilities would be improved.

H. Future Plans

When the DWP prepares its first report to the Governor of Maine, in 2002, the agency plans to evaluate the possibility of expanding the strategy by adopting some of the more far-reaching recommendations of the AC. These might include efforts to incorporate drinking water issues into local planning activities around the state; programs to encourage regionalization, consolidation, and satellite management schemes; improvements in inter-governmental relations; and loan guarantee or even grant programs. A “round table” approach to providing assistance to the state’s water systems is also considered a desirable feature in the longer term. All of these strategies have the potential to mitigate some of the more important legal, financial and institutional factors that impair water system capacity in the state. However, it is presently unclear what level of action and involvement the DWP will realistically be able to exercise in these areas.

The DWP plans to explore these issues, both internally and in cooperation with the AC. Public workshops are also an option for gathering suggestions and building support, provided sufficient interest can be generated. It is expected that ideas for approaching these challenges will be better formulated in about two years, at the time that the DWP will be drafting its report to the Governor. This report may serve as a vehicle for

conveying the DWP's ideas on how to expand the strategy in a manner that is consistent with the agency's mission, lies within its discretionary powers, and is acceptable to DWP managers and the Legislative and Executive branches of state government.